

CITY OF HAYWARD AGENDA REPORT

Meeting Date: <u>11/7/02</u>

Agenda Item: __1_

TO:

Planning Commission

FROM:

Norman Weisbrod, Consulting Project Planner

SUBJECT:

Administrative Use Permit Application No. PL-2002-0440 – Jose L. and Olivia

Rayas (Applicant/Owner): Request to Keep and Fly Pigeons

The Property is Located at 25191 Kay Avenue in a RS (Single-Family

Residential) District

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from environmental review and deny the application subject to the attached findings.

BACKGROUND:

For 10 years, the applicant has been raising and racing homing pigeons at their home on Kay Avenue. Recently, Community Preservation staff received a complaint regarding this use. The homeowner was informed that in order to keep the pigeons, approval of an Administrative Use Permit would be required for the keeping of livestock in the RS (Single-Family Residential) District.

The applicant's property is typical of others in the area. It is 55 feet wide and 91 feet deep with an area of 5005 square feet. It is developed with a single-story three-bedroom and two-bath home with an attached garage. The pigeon loft is located in the rear yard 3 feet from the rear property line and just over 8 feet from the nearest side property line, which is in compliance with the setback requirements of the Zoning Ordinance. The loft is 8 feet by 15 feet and 8 feet high. Since it is not over 120 square feet in area, it is exempt from a building permit. The front of the loft is chicken wire and the sides and rear are solid wood. It is painted white with green trim and has a gable roof with composition shingles. It appears to be very well maintained.

Up to 100 pigeons are kept in the loft. They are let out twice a day in the morning and late afternoon to fly and are out between ½ and 1 hour. The pigeons are not fed for several hours before being let out to fly to encourage them to return and to reduce any droppings they may leave on adjoining properties. Some of the pigeons are also periodically taken out of the area for longer flights back to the loft.

The only other use permit application regarding the keeping and raising of pigeons was in 1992. It was approved under appeal and pigeons were kept in the loft at all times and not released for free flight. In this case the pigeons will be released on a daily basis for free flight. Even though they will not be fed for several hours before they are released, there is no guarantee that there will be no droppings from the birds during flight. This can be a detriment to surrounding properties and was the primary claim raised in responses staff received from the neighbors. The other primary concern of the neighbors is the large number of pigeons housed. Staff believes that the level of this activity associated with the pigeons is out of character with its single-family neighborhood setting.

ENVIRONMENTAL REVIEW

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 Existing Facilities.

PUBLIC NOTICE

On July 26, 2002, a Notice regarding this Administrative Use Permit was mailed to property owners and residents within 300 feet of the project site. Staff received the following responses from the notice:

- A petition in favor of the applicant being allowed to keep and fly pigeons. The petition states that they do not perceive any bad odor or loud noise from the loft and do not have any problems with droppings from the pigeons. The petition has 13 signatures representing 8 separate properties.
- Two phone calls from residents opposed to the pigeons. They complain of droppings on the roofs of their houses and cars, and noise from whistles and claps when the owners are training the birds. They would have no problem if there were only three pigeons.
- A phone call from a resident at the rear of the applicant's home stating the pigeons are no problem and the property owner keeps the area very clean.
- An e-mail letter from a representative of the Southgate Area Homeowners Association stating that the Board voted to oppose the request for the keeping, breeding, maintenance and flying of pigeons. The letter states that the birds carry disease, lice and leave droppings everywhere.

The applicant submitted a letter from the City of Hope stating that over a 10 year period, California Racing Pigeon Clubs have raised over \$500,000 for City of Hope through the "Fly for Hope" program. It also states that birds are still employed in remote areas to fly blood samples and messages.

CONCLUSION

The typical administrative use permit application for the keeping of livestock is for animals that are maintained entirely within the confines of the applicant's property. In this case the pigeons are allowed to fly throughout the surrounding neighborhood with no control where they may leave droppings or land. The surrounding residents have no control over when the pigeons will be flying over their property. The keeping of pigeons could also result in bad odor or loud noise. Staff cannot recommend approval of this administrative use permit unless the pigeons are kept caged at all times. Should the Planning Commission wish to approve this project, staff will have to return to the Commission with the proper findings and conditions of approval.

Prepared by:

Norman Weisbrod

Consulting Project Planner

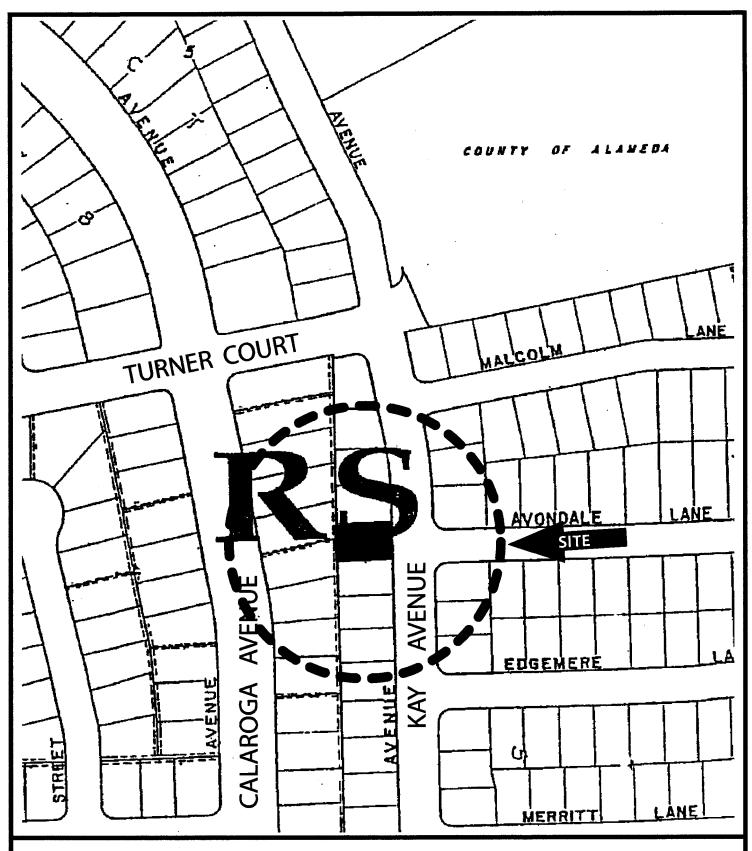
norman Weisbord

Recommended by:

Dyana Anderly, AICP
Planning Manager

Attachments:

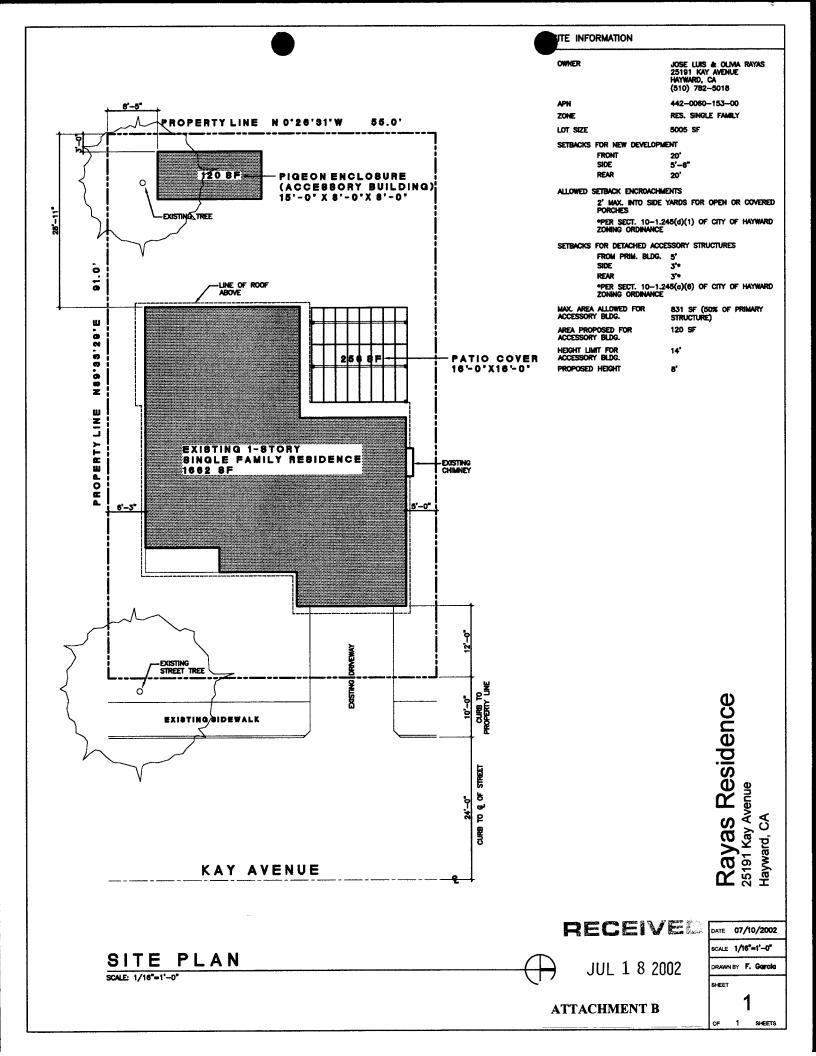
- A. Area Map
- B. Site Plan
- C. Findings for Denial
- D. Applicant's Supporting Material

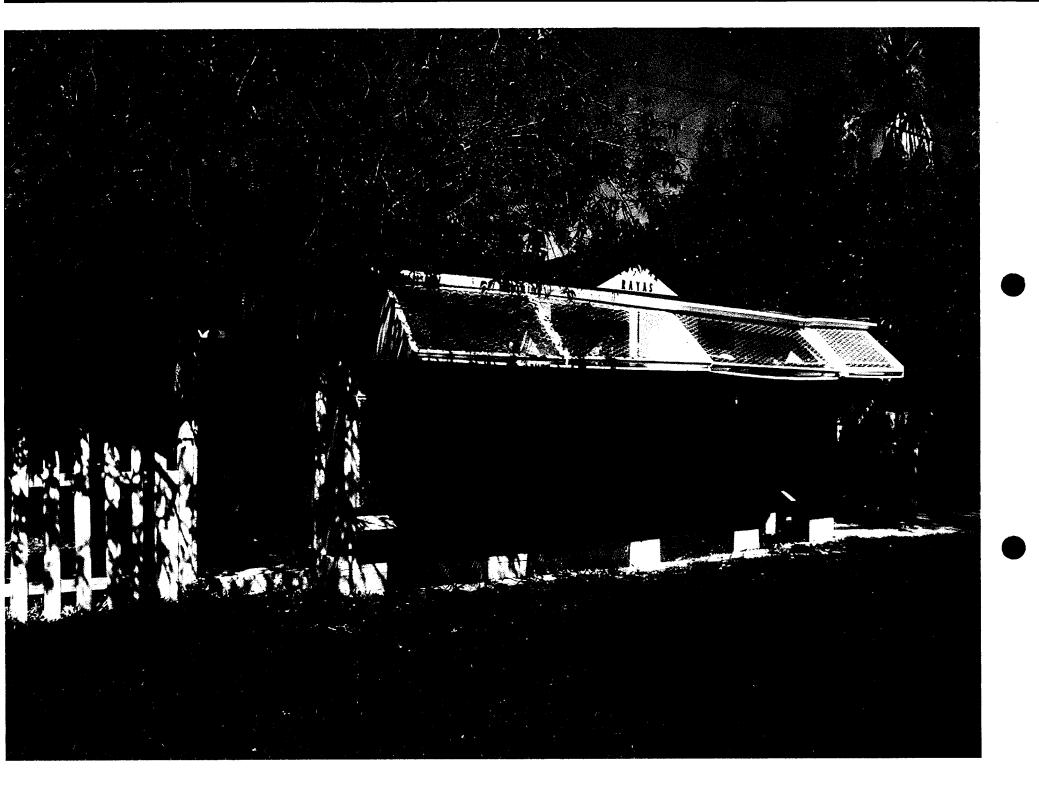


Area & Zoning Map

PL-2002-0440 AUP

Address: 25191 Kay Avenue Applicant: Jose L & Olivia Rayas Owner: Jose L & Olivia Rayas RS-Single-Family Residential, RSB4, RSB6



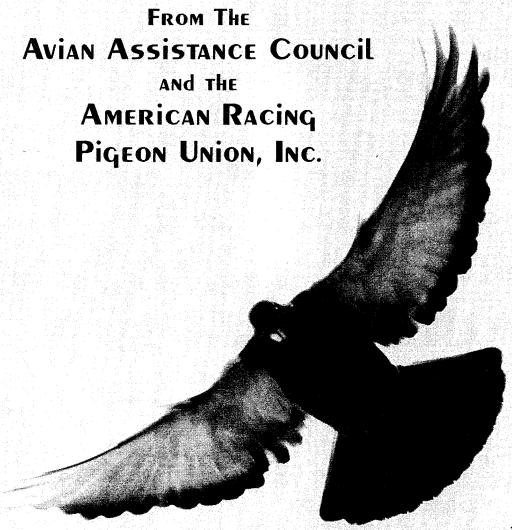


FINDINGS FOR DENIAL

Administrative Use Permit No. Pl-2002-0440 25191 Kay Avenue Jose L. and Olivia Rayas (Applicant/Owner)

- 1. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) Guidelines, pursuant to Section 15301 Existing Facilities.
- 2. The proposed use is not desirable for the public convenience or welfare in that the keeping of pigeons could lead to odors if not kept in a sanitary condition at all times and the flying of pigeons in the neighborhood could result in droppings on neighboring properties and cars.
- 3. The proposed use will impair the character and integrity of the zoning district and surrounding area in that the keeping and flying of pigeons may result in odors and droppings in the surrounding residential neighborhood.
- 4. The proposed use will be detrimental to the public health, safety, or general welfare in that the pigeons flying over the surrounding residential neighborhood will result in droppings on surrounding properties and vehicles travel through or parking in the surrounding area.
- 5. The proposed use is not in harmony with applicable City policies and the intent and purpose of the zoning district involved. The purpose of the RS Single-Family Residential District is to promote and encourage a suitable environment for family life. The keeping and flying of pigeons may create a nuisance for the surrounding residential properties and not be in harmony with the type of living environment homeowner's desire.

HOMING PICEONS PERCEPTION VS. REALITY



ATTACHMENT D

HISTORY



Modern pigeon racing had its beginning in the early 1800's in Belgium. However, man has long used pigeons as pets, as a source of food and as message carriers possibly as far back in time as 5,000 years ago.

Neolithic man began taming animals around 8,000 years ago. The pigeon, a seed eater, would have been relatively easy to domesticate. Certainly, as man began to grow grains, the pigeon is a species that would have naturally gravitated around human settlements and farms.

At the height of the Moorish Empire, the Arabs used pigeons as messengers. In the Dark Ages and in Medieval times, from Baghdad in the Middle East to the Barbary Coast in North Africa, Arab officialdom employed carrier pigeons. Genghis Kahn also reputedly made use of pigeons as his empire expanded.

Carrier pigeons were a major component in the expansion of the industrial revolution. Reuters News Agency was begun with homing pigeons. The symbol for many European postal systems is a stylized figure of a "carrier (homing)" pigeon, to this day.

Pigeon racing in Belgium probably began with the use of Persian messenger pigeons as the foundation stock. Crossed with local pigeons, the modern racing homer gradually developed into what we know it as today. That development continues unabated.

The first known long distance pigeon race was in Belgium in 1818. In 1820 a race was flown from Paris to Liege, and in 1823 from London to Antwerp. By 1870 there were 150 racing societies in Belgium and over 10,000 lofts. Neighboring Holland became fascinated with the hobby and wholeheartedly joined in. After 1875 the hobby of pigeon racing gained popularity in England. Today there are approximately 90,000 lofts each in both Belgium and Holland while there are some 100,000 lofts in England.

The hobby was introduced to the United States in the late nineteenth century. It also gained a foothold in parts of France. It is now becoming popular in Japan, Taiwan, Canada, Australia, South Africa and mainland China. There are fliers in India, Argentina and Hungary. However, the birthplace of the sport as we know it, Belgium, remains the center of the fancy.

At present, there are approximately 15,000 registered racing pigeon lofts in America. In the past five years interest in pigeon racing in this country has been growing. It is thought that this is mainly due to the popularity and escalating number of young bird futurities. This hobby has developed into a wholesome backyard sport in which the entire family can participate. The American tendency toward enterprise and competition is nicely met by this trend in the hobby.

With the recent creation of The Pigeon Center and The International Institute of Pigeons and Doves in Oklahoma City, the sport is entering a new phase. The American Racing Pigeon Union, (AU) the leading organization of fliers, has joined with the Canadian Racing Pigeon Union, International Federation of American Homing Pigeon Fanciers, Inc., and the National Pigeon Association in what will eventually become a federation of the sport.

Z

COMPARISON OF RACING PIGEONS WITH OTHER BIRDS

Many local governmental officials mistakenly believe that registered racing pigeons are the same birds as the wild pigeons which overpopulate town squares, public buildings and parks; they are not. In fact, registered racing pigeons are kept and revered like birds of all kinds, such as parakeets, parrots, cockatiels, macaws, doves, hawks and falcons.

Registered racing pigeons are admired by fanciers for their superb athleticism, determination, and loyalty to their home lofts and owners. Because they are expected to race home from distances up to 600 miles in a day, racing pigeons must be in perfect health, well fed and cared for daily.

Registered racing pigeon fanciers are expected to meet higher standards than those set for the maintenance and care of other birds. The registered racing pigeon is an athlete. Racing pigeons compare favorably with all other birds kept by the American public. Considering cage birds and birds of prey (hawks and falcons) kept for falconry and propagation, racing pigeons meet and exceed most of the same legal and general maintenance requirements:

- 1. Registered racing pigeons are banded as very young birds to permanently register them and mark them for record keeping and racing purposes, as are cage and falconry birds.
- 2. Racing pigeon fanciers follow strict medical regimens to ensure health and to prevent disease. Falconers and other bird fanciers attempt to emulate racing pigeon fanciers' standards for health excellence. Presently, there are a number of veterinarians in the U.S. whose singular specialty is racing pigeon medical treatment.
- 3. Falconry birds are maintained in housing based on standards set by federal and state law and regulations Cage birds are normally housed indoors, except for certain kinds of doves and fancy show pigeons which, like racing pigeons, are kept outside. Virtually all racing pigeon lofts are built to standards equal to those for falconry and cage birds. The AU has set minimum standards for lofts and their construction and maintaining birds' facilities.
- 4. The United States Post Office recognizes the importance of racing pigeons by providing optimum standards for shipment in special boxes and under humane conditions. Cage and falconry birds are not even accepted by the Postal Service for shipment.
- 5. Most airlines will accept equally racing pigeons, cage birds, and falconry birds. The International Air Transport Association sets specific airline standards for the shipment of each kind of bird. Like the others, racing pigeons must be shipped by air in specially designed containers. In cases of international air

shipment, all birds must be accompanied by a veterinarian's health certificate.

6. When racing pigeons are imported from Europe or other countries of origin, like falcons, hawks and cage birds, they are held in quarantine. The United States Department of Agriculture officials require a health quarantine of imported birds to protect native species of wild birds and birds kept by people. Special sections for racing pigeons exist at the USDA quarantine facilities. The quarantine period for pigeons is presently thirty days.

Since racing pigeons, fancy show pigeons, cage birds of all types, and falconry birds have been kept for centuries, national officials in the United States and in almost every nation in the world recognize their importance to culture, history, education, companionship and recreation. Consequently, these officials do not distinguish among the birds as to type or use. Standards are set to assure that all birds are treated humanely. Means are provided to put all of the birds in commerce through national and international shipment.

Registered racing pigeons and their handlers take their appropriate and rightful place next to the other Americans who keep birds for companionship and recreation. Prohibitions against keeping and racing pigeons are no more justified than they are for denying the keeping of beautiful parrots and macaws, or hawks and falcons. When racing pigeon fanciers are denied their right to keep and to fly their birds in a reasonable manner, while their neighbors may keep cage birds or hawks and falcons, there arises an element of bias and discrimination. This is not justified, and most public officials recognize this when they understand the needs of racing pigeon fanciers.



Where the Power of Knowledge Saves LivesTM

July 1, 2002

Ms. Ramona Portillo Community Preservation Office 777 "B" Street Hayward, California 94541

Re: Mr. Luis Rayas 25191 Kay Avenue Hayward, California 94545

Dear Ms. Portillo:

I am writing to you on behalf of Luis Rayas to support the housing and training of racing pigeons within the community of Hayward. Since pigeon racing is a relatively new practice in the United States, especially when compared to Europe, little is known about this sport.

Pigeons are related to the dove family. Over the millennia, homing pigeons have been friends and helpers of mankind. While their role in delivering messages has been eclipsed by our electronic communication age, their value to man nevertheless continues. Each pigeon flyer is registered with the federal government to be available for national emergencies. Birds are still employed in remote areas to fly blood samples and messages.

These birds are not noisy: they "coo" at a noise level far lower than that of a nearby barking dog and are quiet at night. Pigeon fanciers maintain a clean environment for their birds. Special flooring prevents birds from standing in their own droppings. They rarely defecate when flying because they fly on an empty stomach (thus prompting a greater incentive to fly home).

These birds are trained, fed and cared for in the most humane and hygienic conditions. At the City of Hope National Medical Center, we kept a loft for many years. These birds posed no risk to our patients who are often vulnerable to outside viruses.

We can make arrangements for you to view a very informative and interesting video on pigeon racing narrated by the late Michael Landon, who himself was a racing enthusiast. This film provides tremendous insight into the dedication and love these racers have for their birds and their sport.

2151 Michelson Drive, Suite 275, Irvine, CA 92612 Tel 949-622-1900 800-235-0579 Fax 949-622-1910 www.cityofhope.org July 1, 2002 Page 2

The purpose of this letter is to emphasize that with the passage of the Harvey Bill, AB 3109-1990, a copy of which is enclosed, such a pastime is not only protected by law, but indirectly aids the humanitarian cause of the City of Hope.

City of Hope is one of only 40 National Cancer Institute designated *comprehensive cancer* centers. The City of Hope supports its National Medical Center and the Beckman Research Institute. It is dedicated to the service of humanity through pioneering programs in patient care, research and education in the major diseases of our time, such as cancer, diabetes and AIDS.

How does this sport assist in the work of the City of Hope? City of Hope's annual budget needs are in excess of \$350 million. A large percentage of such major funding comes from the City of Hope's annual program of special events. Over a ten year period, California Racing Pigeon Clubs have raised over \$500,000 for City of Hope through the "Fly for Hope" program.

Encouraging the residents of Hayward to consider the pleasant pastime and sport of pigeon racing will indirectly serve the efforts of City of Hope. As a wholesome sport which attracts community participation, including the youth, a positive action would enhance the community as well as the City of Hope. For all of these reasons I hope that you will consider favorably the advocacy of this amazing and wonderful sport.

Sincerely,

Joanne Ling City of Hope Fly for Hope Director

Enclosure: AB 3109-1990

JL/tlt

Assembly Bill No. 3109

CHAPTER 329

An act to add Section 65852.6 to the Government Code, relating to birds.

[Approved by Governor July 17, 1990. Filed with Secretary of State July 17, 1990.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3109, Harvey. Pigeons.

Under existing law, local government may regulate land use within

its jurisdiction for various specified purposes.

This bill would provide that it is the policy of the state to permit the breeding and maintaining of homing pigeons consistent with the preservation of public health and safety and would distinguish them from fowl.

The people of the State of California do enact as follows:

SECTION 1. Section 65852.6 is added to the Government Code, to read:

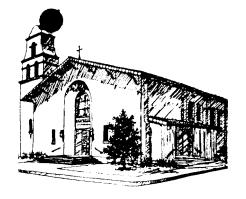
65852.6. (a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation

of public health and safety.

(b) For purposes of this section a "homing pigeon," sometimes referred to as a racing pigeon is a bird of the order Columbae. It does not fall in the category of "fowl" which includes chickens, turkeys, ducks, geese and other domesticated birds other than pigeons.

Parish of St. Joachim

21250 HESPERIAN BLVD. • HAYWARD, CALIFORNIA 94541 (510) 783-2766



July 16, 2002

Ms. Ramona Portillo Community Preservation Office 777 B Street Hayward, CA 94541

Dear Ms. Portillo,

This is to inform you that Mr. Rayas is a parishioner at Saint Joachim Church and as a member of this Parish he has made his homing pigeons available on various occasions. We have used the pigeons for school graduations and weddings. The pigeons are released at the end of the ceremony as symbols of a new beginning and spiritual growth.

His pigeons have also been used as an educational tool for the students of our school. Mr. Rayas has taught students the difference between homing pigeons and street pigeons. He has also taught them the proper way of holding and caring for them. Whenever the pigeons have been made available to us, the pigeons appear well kept, clean and free of parasites.

Please feel free to contact me if you have any questions regarding this.

Sincerely.

Father Sergio Mora

Pastor

(510) 783-2766

AMERICAN RACING PIGEON UNION, INC.

P.O. BOX 18465 OKLAHOMA CITY, OK 73154-0465 PH. 405-848-5801 FAX 405-848-5888

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Executive Vice-President DR. FRANK GREENHALL 2868 River Road Melrose, NY 12121 (518) 664-2994

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ROBERT E. LYNCH 4105 Coventry Way Tifton, GA 31794-6426 (229) 382-0019

Constitution, By-Laws Advisor HERB CARTMELL 23926 57th Ave. SE Woodinville, WA 98072 (425) 486-4725 (425) 556-9611 Fax

Executive Director KAREN CLIFTON P.O. Box 18465 Oklahoma City, OK 73154-0465 (405) 848-5801 July 2, 2002

Ms. Ramona Portillo Community Preservation Office 777 B Street Hayward, CA 94541

Dear Ms. Portillo:

This will confirm that Mr. Luis Rayas is a member in good standing with the American Racing Pigeon Union, Inc. (AU). The AU is a membership organization comprised of nearly 10,000 members across the United States.

As such, Mr. Rayas, not only enjoys benefits and awards from the AU, but also is required to maintain a healthy loft and provide exceptional care for his pedigreed Homing Pigeons. Mr. Rayas observes these requirements and is a member in good standing.

We are hopeful that you will review the materials he presents and reconsider his privilege to maintain the birds. Please review the booklet, Homing Pigeons: Perception vs. Reality. Pigeons are clearly not considered poultry or fowl. We think you will find the model ordinance in the back of the book as a manageable solution.

The hobby of raising and racing Homing Pigeons is one that is enjoyed by hundreds of youth throughout America. Our goal is not only to enhance the hobby for adult fanciers, but to preserve the hobby for our future - our youth.

Please feel free to call on us if we might be of service or provide additional information.

Thank you for your assistance and careful consideration.

Sincerely,

Karen Clifton

Executive Director

/k



FACT SHEET

FASCINATING...

- In the mid 1800's, the **Reuters News Agency** operated a live telex service using Homing Pigeons.
- There are nearly **1 million** pigeon fliers around the world today.
- The ancient Greeks used Homing Pigeons to carry messages 5,000 years ago.
- Homing Pigeons race from 80 to 600 miles at speeds of 40 to 60 mph over terrain they have often never seen before.
- Homing Pigeons were used extensively as a highly reliable method of communication in military conflicts during the two World Wars and the Korean War. They saved thousands of lives while in military service.
- Homing Pigeons were introduced to the United States in the mid 1800's. In the 1880's, the first 500-mile race took place in this country.
- Some international races award large cash prizes. In the United States, most races are held for good, clean family fun.

FAMOUS FANCIERS:

Walt Disney began releasing a flock of white Homing Pigeons as part of daily ceremonies at Disneyland and Disney World. The tradition continues today.

Terry Bradshaw, former Pittsburgh Steelers' Quarterback, breeds pigeons.

Ray Price, country singer, enjoys breeding Homing Pigeons.

Actors Yul Brynner and Roy Rogers raised pigeons.

Pablo Picasso, who also raised Homing Pigeons, named his daughter "Paloma", Spanish for dove.

Boxing champion, *George Foreman*, maintains a loft and breeds Homing Pigeons.

Actress *Joanne Woodward* raised fancy breeds of pigeons.



Maurizo Gucci is a fancier of show pigeons who is on record for paying more than \$10,000 for an American bird

The British Royal Family has raised Homing Pigeons for centuries, and has an active racing loft yet today.

DID YOU KNOW...

- A combination of an extremely accurate internal "sunclock" and magnetic fields enable the athletes to return home.
- The ability to hear sounds 11 octaves below middle C allow the pigeons to detect earthquakes and electrical storms.
- The top national race, *Snowbird Classic*, awards a purse of **\$600,000**.
- The highest priced Homing Pigeon was sold for \$225,000.
- Homing Pigeons have pedigrees like racehorses.
 They are bred and trained with the same care bestowed upon their equine counterparts.

ABOUT THE "AU"

The American Racing Pigeon Union was founded in 1910 and is the largest pigeon association in the country. The AU sets race rules and provides members a code of conduct, as well as funds veterinary and scientific research to enhance the sport and assist its members.

For more information on how to join the nearly 10,000 American Racing Pigeon Union members across the United States, call 405-848-5801 or fax 405-848-5888.

Or write:

American Racing Pigeon Union, Inc. P.O. Box 18465 Oklahoma City, Oklahoma 73154-0465

Visit our website: www.pigeon.org

Join the Sport of Pigeon Racing Today!